

WHAT CONGRESS SAID

CONGRESS has determined that the long-standing military law prohibiting homosexual conduct continues to be necessary in the unique circumstances of military service.

Title 10 of the U.S. Code addresses homosexuality in the armed services. Congress said that applicants should not be asked about homosexuality as part of the processing of individuals entering the armed forces, in the absence of a determination by the secretary of defense that such questions are necessary. Applicants for military service are no longer asked about their sexual orientations.

Title 10 recognizes that one of the most critical elements in combat capability is unit cohesion, and affirms that the armed forces must

maintain personnel policies that exclude persons who would create an unacceptable risk to unit cohesion. Title 10 recognizes that military life is fundamentally different from civilian life and concludes that the presence of individuals in the armed forces who engage in homosexual acts creates an unacceptable risk to unit cohesion and standards of morale, as well as to good order and discipline.

In 1993 Congress said that engaging in, attempting to engage in, or soliciting another to engage in homosexual acts is grounds for discharge from the military. Congress said that service by those who have a propensity to engage in homosexual acts creates an unacceptable risk to morale, good order and discipline, and unit cohesion.

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The secretary of the Army signed Army Regulation 600-20, "Army Command Policy," on July 26, 1999. Paragraph 4-19 of the regulation defines the Army's policy on homosexual conduct, which implements section 654 of United States Code's Title 10.

The policy states clearly that suitability to serve in the Army is based on a soldier's conduct and on the ability to meet required standards of duty performance and discipline.

Homosexual conduct is grounds for discharge from the Army. The policy defines homosexual conduct as: an act or a statement by a soldier that demonstrates a propensity or intent to engage in homosexual acts; the solicitation of another to engage in a homosexual act or acts; or a homosexual "marriage" or attempted "marriage."

Informal fact-finding inquiries and administrative-separation procedures are the

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